

Municipal Council Agenda  
Tuesday, September 25, 2007  
7:00PM Town Hall Auditorium

President Lawrence called the meeting to order at 7:02 pm.

Councilor Lindstrom led the Pledge of Allegiance

Roll Call: Members present Councilor McClure, Councilor Pinierio, Councilor Thone, Councilor Benson, Councilor Iacobucci, Councilor King, Councilor Lavoie, Councilor Lindstrom, and Councilor Lawrence

Public Comment

Allen Neale stated he believed one of the duties that the Council holds is that of fiduciary responsibility to the town. The Council shouldn't take actions that are going to negatively affect the town's bond rating and he believes the measure to set a new limit of one million and a half dollars under what proposition two and a half allows will do just that. When there is a reduction in the bond rating it means that there will be increased long and short term interest costs. He believes the Council wants to try to keep costs down for the taxpayers but if this is adopted it will have the opposite impact. Standard and Poor says "although financial operations remain stable the Town's financial position is weak with below average reserve levels." He stated he didn't see how creating a new cap is going to help the town increase reserve funds, in fact it would make it almost prohibitive to increase those reserve levels that Standard and Poor find necessary to have good bond rating. He stated the town continues to operate within the two and a half limitations without overrides unlike many towns and cities in Massachusetts. He stated he doesn't understand why the town would want to give up the flexibility that many other towns don't enjoy. He stated the towns people have a right to vote on measures but he has not seen the towns people present a petition, instead he's seen councilors present this proposal and as he stated in the beginning the Council has a fiduciary responsibility to the town and he thinks the Council is violating their responsibility if they move forward with this measure.

Stephen Dunford stated he was against the under-ride. He stated there is a deep concern about taxes but there is more concern on where the money is going. He asked the present Council to give the new Council the chance to the same rules that they have enjoyed. He stated he would like to campaign positively about the things he wants to do and not campaign against the under-ride. He stated he hoped the Council would vote down putting the under-ride on the ballot.

Jim Thivierge urged the Council to vote against putting the under-ride on the ballot. He believes it is a dangerous precedent. He wants the council to consider a debt exclusion. He stated there are ways to maintain and perhaps reduce water and sewer rates.

Mary Chatigny stated she wanted to voice her opposition to the tax under-ride. The Town needs to have all the necessary supplies to build and grow. She stated no one can predict the future and what situations the Town might encounter with respect to monetary needs. She believes the under-ride is a back door way to tying the town's hands and its ability to operate. She stated if the Council believes the Town is wastefully spending our tax dollars then the hard decision to cut the supposed waste should have been made during the budgetary process.

Anne Ferguson stated she is against the under-ride and believes it is fiscally irresponsible. The Council had an opportunity to make cuts with the budget and asked that they not pass this on to the

next council. She stated an under-ride would not cut taxes and would cripple our schools and hurt the community.

Rory McCarron stated he is representing an international mobilization of the youth generation to stop the global financial crisis. He stated that by the middle of next month it is known that over seven million American people will lose their homes due to the collapse of the mortgage market and the real estate market. He asked the Council if they would look over the Draft Resolution that he prepared and asked them to pass the resolution.

Michael Greaney brought up the CIP as presented by the Mayor and questioned when the annual report was coming out. He wants to understand how the public employees are making out in the town in comparison to the taxpayers. He thinks the million seven hundred dollars taken in each year in excise taxes should be put towards the roads, sidewalks, etc. He stated the departments don't live within their budgets and the only department he has any faith at all in is the sewer department run by Mr. Croveti.

Councilor Thone stated she wanted to comment on the comments made on the under-ride. She thinks there is some perception that this Council is going to vote for an under-ride, they are simply voting to put a question on the ballot. She appreciates everybody's opinion on the under-ride but they can state their opinion at the ballot box. The Council is making a decision to put a question on the ballot. The community will decide whether or not to vote on an under-ride. That being said, it is her opinion that this under-ride will not stop spending it's going to slow spending. The next two fiscal years the community will still be able to spend an additional 2.4 million dollars in the budget including fees, fines and state aid on top of that. She doesn't believe that the one million dollar under-ride will affect the town's ability to increase spending in the future. If the taxpayers choose to increase spending they can do that by passing an override.

Councilor Lindstrom stated she doesn't believe that it is the Council's job when a ballot question is brought before them to decide the policy of it. There have been other ballot questions that the Council had no choice to agree or disagree with and they put it on the ballot. She believes that Councilor Thone and Councilor McClure, as representatives of the taxpayers and the other people of this town represent eleven thousand people not just four hundred people. She believes it is a question of Charter issue and if the word gets out the people of this town are smart enough to understand consequences or the benefits to either vote for or against the under-ride.

Councilor Lavoie stated it is legitimate for the question to be sponsored and brought before the Council as to whether to put it on the ballot or not and it's up to the Council to do that. He stated he didn't see this from taxpayers. He didn't see a lot of taxpayers come out at any of the elections for anything. The fact of the matter is this is yet another situation of a solution looking for a problem. If the taxpayers united in this community wanted to do something they could sign their names on a petition and it would be on the ballot. It is certainly appropriate for a Council member to sponsor and under-ride to see if it should go on the ballot or not. He stated he doesn't think there is a need to. All that would happen with an under-ride is that at some point in time when an unforeseen contingency arises that would have fallen within our normal levee to meet, with an under-ride in place that won't be able to happen. The town will have to undo the extraordinary event that people are proposing to put an under-ride on. He stated he thinks it is bad policy and he will be voting against it.

Councilor Iacobucci has faith in the ability of the voters to make the right decision and to vote appropriately.

Councilor Pinierio stated he is in favor of having the voters decide if they want the under-ride. He stated he is in favor of the under-ride.

Councilor McClure stated that Councilor Lavoie thinks this is a solution waiting for a problem. She said she truly believes if he doesn't think taxes are a problem in Amesbury he must be blessed. The cost of living against the average income is just not right. The only reason this was brought forward is to let the residents express themselves at the ballot box and so be it.

Councilor King stated it was the Council's responsibility to cut the budget. An email from a councilor came up earlier that was sent out a few years back talking about how devastating an under-ride would be to the community and further stating that the council would look at the budget hard and fast and do what they could to cut the budget. She stated this council had two years to address the tax crisis and has not cut the budget and to turn it over to the community is a lack of leadership.

Mayor Pinierio stated the Mayor cut the budget 2.2 million dollars. There was no other place to cut because most of the budgets came in a little above last year and the biggest increase was in special needs which is 1.5 million dollars which is mandated by the state. There was no other place to cut. If the council cut any more they'd be laying off people. The council did the best they could with what they had in front of them. The Mayor cut 2.5 million for him to take the credit that way the council could not cut anything because it was as lean as it could be but the Mayor got what he wanted.

**President Lawrence** opened the public hearing on **2007-081** An Order to approve the transfer of assets of the Amesbury Municipal Retirement Board to the P.R.I.M. Board per Chapter 68, sec 4, of the Acts of 2007.

Mr. Basque explained that on August 30, 2007, the Amesbury Retirement Board voted to voluntarily transfer the assets of the municipal retirement system to the State PRIM Board. At that time the Retirement Board requested that the Mayor approve such voluntary transfer which he approved on August 30, 2007 and that the Mayor submit this order for Municipal Council approval. He stated this is a new law that was recently enacted entitled "An Act to Reduce the Stress on Local Property Taxes Through Enhanced Pension Fund Investment". Under this new law a system as of January 1<sup>st</sup> had a funding ratio of less than 65% and an average rate of return during the previous ten years at least 2 % less than the State fund had for a return over that same period would be required to turn the assets over to the State fund which would be managed and invested by the State. Section four of the same law provides that if a board decides to voluntarily transfer ownership and control of the assets to the PRIM Board the local Retirement System may so voluntarily make that transfer subject to the approval of the Mayor and majority of the Municipal Council. If the Retirement Board chooses to voluntarily turn over the assets then a decision can be made after five years on whether to continue investing with that fund or to leave the fund and bring them back into the community to be re-invested. This vote has to take place prior to October 1, 2007. The Retirement Board determined that it was best at this time to voluntarily turn the assets over because that would allow for a review after five years as to whether they want to continue with that or not. The only question before the Council is whether they will vote to approve the voluntary transfer which would allow for the five year review. If the Council votes No or does not vote before October 1<sup>st</sup>, it will be a mandatory requirement to turn the assets over permanently and there will be no review in five years. It is his opinion that this is the first phase of combining all retirement systems into one.

Councilor Iacobucci disclosed that all members of the Council are or are eligible members of the Retirement System but out of the rules of necessity they are all entitled to participate and act on this.

He asked Mr. Basque what the size of our assets for the Retirement and how the current asset allocation was broken up.

Mr. Basque stated \$37,400,000. He stated the eight year return averaged 8.27%, the Commonwealth's ten year return was 10.51%. He explained how the current asset allocation was broken up and the differences in what they are allowed to invest in compared to what the State is allowed.

Councilor McClure stated this is a mandate from the State, our fund is underperforming, and they want to take it and do better for us.

Mr. Basque stated he would question the underperforming but they feel that they can improve it by taking it and investing with greater risk. They have the expertise, it's a large pool and he believes it is phase one. It has the potential to be good for us but it is at greater risk. His main concern is twenty years down the road if they are to accumulate some multiple billion dollars of assets of pension funds of all our local communities and there is some giant fiscal crisis at the State level can or might they leverage the pension fund against it. That's a concern down the road that now the government says not it won't happen but as we know when there is a crisis they look for the quick answer.

Councilor McClure asked if this was the main function of the retirement board.

Mr. Basque stated there are one hundred and four retirement systems in the state and they all operate under the same rules and overall guidelines. One of the duties is the investment of the pension funds with the fiduciary responsibility which will be transferred to the state. The other is the general operation of the retirement system which will continue in town. Instead of worrying about the investment portfolio the concern will be with cash flow and the overall administration of granting pensions, decisions on disability pensions and the overall administration of benefits.

Mr. Thivierge asked what the Town's five year return was versus the Commonwealth's and did the Board comment to the State on this.

Mr. Basque the Town's five year return was 8.15 and the Commonwealth's was 11.61. Last year's return was 14.76 and the Commonwealth's was 16.72. The Retirement Systems commented through the Mass Association, the Retirement Systems. They are very much opposed to this legislation. The MMA is in favor of it. It's a very controversial piece of legislation.

Mr. Thivierge urged the Council to keep the options open and vote for this.

Mr. Neale stated we don't have a choice; however it is important to keep the Town's options open by voting for this.

President Lawrence closed the public hearing.

**President Lawrence** read **2007-083** November 6, 2007 Ballot Question - Nonbinding referendum question submitted by the Amesbury Public Library Board of Trustees – Mayor Kezer sponsor and opened the public hearing.

Mayor Kezer stated the Library Trustees requested him to place this on the agenda. They are non-binding opinion questions and his facilitating the process on behalf of the Library Trustees to put the question out there on the ballot.

Mr. Thivierge stated he has a problem with question two because he thinks there are opportunities for other place other than downtown. He stated he thinks the Town should consolidate a lot of space, cut costs and still provide a library and integrated environment of both the youth and elderly in the periphery and having the focus of the library with a cultural component interwoven within. He stated he believes it is within the bonding capacity. He stated over the last ten years the Town's fiscal position has eroded and a lot of it has been due to the policies of the front office.

Stephen Dunford stated he doesn't believe this should go on the ballot and asked the Council to not place the non-binding referendum on the ballot.

Mr. Greaney stated the historical society will stand firm on not allowing the library to be torn down but nothing has been kept up in the Library and questioned what it would cost to rehab the library after the library is moved somewhere else and what would it be used for once all that is done.

Kate Broughton stated as a former Library Trustee and as a former member of the building expansion committee she thinks the decision to put the questions on the ballot is premature and does not agree the Trustees are acting in the good benefit for all the Town by even pushing the question. No one is talking about tearing anything down or building anything. She stated referendums should be yes – no questions to answer very simple questions and what is proposed are very broad questions.

President Lawrence closed the public hearing.

Second Readings:

**2007-075** An Order to establish an Affordable Housing and Expedited Permitting Stabilization Fund as provided by M.G.L. c. 40, Sec 5B "Stabilization funds; establishment" to be known as the Smart Growth Housing and Expedited Permitting Fund.

Councilor Iacobucci moved the Ordinance Committee and Planning Board's recommendations for approval as amended.

Roll Call Vote – 9-Yes, McClure, Pinierio, Thone, Benson, Iacobucci, King, Lavoie, Lindstrom, Lawrence

**2007-076** November 6, 2007 Ballot Question - \$1,500,000.00 Underride – Councilors McClure, Thone sponsor cont.

Councilor McClure moved the finance committee recommendation that it is the right of the citizens to referendum and that the committee concurs that they believe that the capacity in the levy would be approximately \$1 million and that it is recommended to the council that the amount is reduced to \$1 million dollars.

Councilor Connolly King objected to the vote  
Councilor Benson further objected.

Councilor Iacobucci asked for a ruling from the chair as it was an inappropriate time for objection..

President Lawrence stated the time to object is when he asks for a Roll Call Vote.

Councilor Iacobucci asked for a ruling of the chair if this falls under the definition of a measure.

President Lawrence stated 2007-076 was defined as a measure. He would call the roll.

Councilor Connolly King objected.

Councilor Benson further objected.

President Lawrence stated 2007-076 would be continued to the October 2, 2007 Council meeting.

**2007-081** An Order to approve the transfer of assets of the Amesbury Municipal Retirement Board to the P.R.I.M. Board per Chapter 68, sec 4, of the Acts of 2007 – Mayor Kezer sponsor

Councilor Benson moved for approval as submitted.

Councilor Iacobucci stated he thinks the state should take over the Retirement investments and he does not think they need to worry and spend the time about bringing it back in the future because someone may always want to try to do investments and dabble in things like that but in the end when you are a 47 billion fund and you can hire the best he thinks well for that. He stated he will vote against the approval because he thinks they should let it go to the state and let it stay there and let the Retirement Board focus here locally on the issues that are important dealing with and approving the retirements and disability retirements and let the investments be handled by who he thinks are truly the experts.

Councilor Lavoie stated the practical common sense approach they heard tonight and that he would suggest that they all vote yes for this bill basically keeps the Towns options open. If in five years the State has done wonders or even 2% better than the towns that are not in there are able to do then people can make that decision then. He said he has been told that in prior years the State didn't have a very good performance record and some community Retirement Systems outperformed the State. From a common sense point of view a yes vote keeps the Towns options open and then let the chips fall where they may.

Councilor Benson stated he agreed with Councilor Lavoie and he thinks it's a flexibility issue and there's no reason to deny ourselves that option down the road if there is a problem at the State level. He stated he would be voting in favor.

Roll Call – 6-Yes, Pinierio, Benson, King, Lavoie, Lindstrom, Lawrence; 3 – No, Thone, Iacobucci, McClure

**2007-083** November 6, 2007 Ballot Question - Nonbinding referendum question submitted by the Amesbury Public Library Board of Trustees – Mayor Kezer sponsor

Councilor Lavoie moved for approval as presented except that they add a third question  
Do you support studying the concept of relocating the library to another site not located near downtown.

Councilor Lindstrom asked how they could vote on it when it was never sent to committee.

Councilor Iacobucci stated at the last meeting they waived the rules so they could send it back to Council and bypass the referral to committee process.

Councilor Benson asked if Councilor Lavoie was proposing a third question or changing question number 2.

Councilor Lavoie stated he was proposing a third question.

Councilor Thone stated she wants to applaud the Trustees for seeking guidance in this manner. Obviously, they are interested in knowing where the people want to go with this. She agrees the second question did not have very much clarity and the opinion from Kopelman and Paige stated that as well. She proposed to amend Councilor Lavoie's motion as follows; Question 2. Do you support studying the concept of retaining the public library at the campus setting which is the same area where the library is presently located?; Question 3. Do you support studying the concept of relocating the library to another site?; Question 4. Do you support studying the concept if relocating the library to another site but one still located near downtown? She stated the information that would be gleaned from those questions will provide more clarity as far as information and that information will be more useful.

Councilor Lavoie withdrew his motion to let Councilor Thone frame the motion.

Councilor Thone made a motion to accept 2007-083 with the following changes; Question 2 would read, Do you support studying the concept of retaining the public library at the campus setting the same area where the library is presently located? Yes\_, No\_; Question 3. Do you support studying the concept of relocating the library to another site? Yes \_, No\_; Question 4. Do you support studying the concept of relocating the library to another site but one still located near downtown? Yes\_, No\_

Councilor Benson stated he would vote against this motion. He stated he thought is was getting out of hand in terms of the number of ballot questions and maybe a survey could answer these questions rather than questions on a ballot.

Councilor Connolly King stated she was disappointed that some members of the Library Trustees who are advocating for this aren't at the meeting. She agrees with Councilor Benson and a survey was done. She sees this as a survey and thinks a ballot question is a very important piece to put in front of the community and to use it as a survey is not what a ballot question is for. She stated there were very similar questions on that survey and why aren't they using the results to move forward. She agreed with Mr. Dunford that the community elects boards to make decisions not to elect boards to turn around and put it to the community. She stated she will be voting against this.

Councilor McClure stated the Trustees are an elected board who take responsibility for the library. It was there decision to bring it before the Council. She does not think they need four questions. Dou you support maintaining a library in Amesbury? Yes \_ No \_ and question 2 just put a period after relocating to another site. She stated she was part of the survey; thousands were sent out and only two hundred responses were received. She will vote for it to go on the ballot.

Councilor Iacobucci agrees four questions is a lot but believes it should go before the voters.

President Lawrence stated he supports two questions as proposed by Councilor McClure.

Councilor Lavoie proposed to amend the main to put a period in Question 2 after the word another site, delete the rest of that sentence except the question mark and the yes-no and that would leave two questions. Councilor Thone stated she would accept that amendment.

Roll Call Vote 8-Yes, McClure, Pinierio, Thone, Benson, Iacobucci, Lavoie, Lindstrom, Lawrence, 1-No, King.

Meeting adjourned at 9:15pm

Respectfully submitted,

Bonnijo Kitchin  
Town Clerk